

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JASON BRUZEK, ET AL.,
Individually and on behalf of
all others similarly situated

Plaintiffs,

v.

HUSKY ENERGY INC., and
SUPERIOR REFINING COMPANY LLC,
Defendants.

OPINION AND ORDER

18-cv-697-wmc

Following defendants' filing of motions to dismiss for failure to state a claim (dkt. #20) and for lack of personal jurisdiction (dkt. #22), as well as a motion to strike plaintiffs' class allegations and allegations concerning the Chemical Safety Board (dkt. #25), plaintiffs filed an amended complaint (dkt. #29), instead of responding directly. While the court approved the parties' stipulation giving plaintiffs until November 28, 2018, to oppose motions to dismiss or amend the complaint, plaintiffs had until November 14 to oppose defendants' motion to strike. Nevertheless, because this mistake was somewhat understandable, plaintiffs may have until December 10 to respond to the motion to strike. Defendants may have until December 21 to file a reply, if any. Plaintiffs are now on notice that any continued failure to respond timely will result in that motion being granted.

As to Husky Energy's motion to dismiss for lack of personal jurisdiction (dkt. #22), it now appears to have been mooted by additional allegations in the amended complaint, but Husky Energy may renew its motion should it wish.

Finally, while defendants' motion to dismiss for failure to state a claim (dkt. #20) appears to be at least partially moot by virtue of the allegations in the amended complaint, plaintiffs must still file a response to that motion on or before December 10, with particular attention to defendants' arguments that they failed to plead: (1) "facts about the alleged intrusions onto their land," as noise and odor "are insufficient as a matter of Wisconsin law"; and (2) "facts sufficient to establish that operation of a refinery generally, or use of hydrofluoric acid specifically, cannot be done safely without proper precautions" (dkt. #21 at 2). Defendants may have until December 21 to file a reply, if any.

Entered this 29th day of November, 2018.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge